New South Wales

ANNO QUARTO

ELIZABETHÆ II REGINÆ

* *

Act No. 14, 1955.

An Act to amend the Child Welfare Act, 1939, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 13th April, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1955." Short title and citation.

(2) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1955.

Amendment of Act No. 17, 1939.

2. The Child Welfare Act, 1939, as amended by subsequent Acts, is amended—

Sec. 12. (Powers of court.)

(a) by omitting from paragraph (b) of subsection one of section twelve the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

Sec. 83. (Powers of court. Indictable offences.)

(b) by omitting from subsections two and three of section eighty-three the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

Sec. 86. (Power with respect to child or young person charged with certain indictable offences.)

(c) by omitting from subsection one of section eighty-six the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

Sec. 87. (Child or young person convicted of indictable offence may be sent to institution.)

(d) (i) by omitting subsection one of section eighty-seven and by inserting in lieu thereof the following subsections:—

(1) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of homicide, rape or an offence punishable by death or penal servitude for life, the judge shall sentence him according to law:

Provided that—

(a) where a child or young person has pleaded guilty to, or has been convicted of murder, sentence may be passed in all respects as though section nineteen of the Crimes Act, 1900, as amended by subsequent Acts, did not contain a provision excluding the application of section four hundred and forty-two of that

that Act in respect of the sentence to be passed under the said section nineteen;

(b) sentence of death shall not be pronounced on or recorded against a person under the age of eighteen years, but in lieu thereof the judge shall, unless he exercises the discretion conferred by subsection one of section four hundred and forty-two of the Crimes Act, 1900, as amended by subsequent Acts (which subsection is hereby declared to be in force with respect to the sentence referred to in this paragraph), sentence him to penal servitude for life.

The provisions of the above proviso apply where the person indicted is over the age of eighteen years if, at the time of the commission of the offence, the person indicted had not attained the age of eighteen years.

(1A) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of any indictable offence, other than an indictable offence mentioned in subsection one of this section, the judge may exercise any of the powers of a children's court enumerated in section eighty-three of this Act, or may sentence him according to law, and in the latter case may direct that the child or young person be detained in an institution for the period specified in the sentence.

(ii) by omitting from subsection two of the same section the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

(e)

Sec. 94. (Transfers from prisons to institutions.)

(e) by inserting in subsection one of section ninety-four after the words "sentence of" the words "penal servitude or";

Sec. 127. (Punishment of capital offences—children and young persons.)

(f) by omitting section one hundred and twenty-seven.

By Authority:
A. H. PETTIFER, Government Printer, Sydney, 1955.

I certify that this PUBLIC BILL, *which originated in the* LEGISLATIVE ASSEMBLY, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

H. ROBBINS,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 29 *March,* 1955.

New South Wales

ANNO QUARTO

ELIZABETHÆ II REGINÆ

* *

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An Act to amend the Child Welfare Act, 1939, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 13th April, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1955." **Short title and citation.**

(2) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1955.

2.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Amendment of Act No. 17, 1939.

2. The Child Welfare Act, 1939, as amended by subsequent Acts, is amended—

Sec. 12. (Powers of court.)

(a) by omitting from paragraph (b) of subsection one of section twelve the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

Sec. 83. (Powers of court. Indictable offences.)

(b) by omitting from subsections two and three of section eighty-three the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

Sec. 86. (Power with respect to child or young person charged with certain indictable offences.)

(c) by omitting from subsection one of section eighty-six the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

Sec. 87. (Child or young person convicted of indictable offence may be sent to institution.)

(d) (i) by omitting subsection one of section eighty-seven and by inserting in lieu thereof the following subsections:—

(1) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of homicide, rape or an offence punishable by death or penal servitude for life, the judge shall sentence him according to law:

Provided that—

(a) where a child or young person has pleaded guilty to, or has been convicted of murder, sentence may be passed in all respects as though section nineteen of the Crimes Act, 1900, as amended by subsequent Acts, did not contain a provision excluding the application of section four hundred and forty-two of that

that Act in respect of the sentence to be passed under the said section nineteen;

(b) sentence of death shall not be pronounced on or recorded against a person under the age of eighteen years, but in lieu thereof the judge shall, unless he exercises the discretion conferred by subsection one of section four hundred and forty-two of the Crimes Act, 1900, as amended by subsequent Acts (which subsection is hereby declared to be in force with respect to the sentence referred to in this paragraph), sentence him to penal servitude for life.

The provisions of the above proviso apply where the person indicted is over the age of eighteen years if, at the time of the commission of the offence, the person indicted had not attained the age of eighteen years.

(1A) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of any indictable offence, other than an indictable offence mentioned in subsection one of this section, the judge may exercise any of the powers of a children's court enumerated in section eighty-three of this Act, or may sentence him according to law, and in the latter case may direct that the child or young person be detained in an institution for the period specified in the sentence.

(ii) by omitting from subsection two of the same section the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

(e)

Sec. 94. (Transfers from prisons to institutions.)

(e) by inserting in subsection one of section ninety-four after the words "sentence of" the words "penal servitude or";

Sec. 127. (Punishment of capital offences—children and young persons.)

(f) by omitting section one hundred and twenty-seven.

In the name and on behalf of Her Majesty I assent to this Act.

J. NORTHCOTT,
Governor.

Government House,
Sydney, 13th April, 1955.

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

H. ROBBINS,
Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, 24 *March,* 1955.

New South Wales

ANNO QUARTO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1955.

An Act to amend the Child Welfare Act, 1939, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1955." **Short title and citation.**

(2) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1955.

2. The Child Welfare Act, 1939, as amended by subsequent Acts, is amended— Amendment of Act No. 17, 1939.

(a) by omitting from paragraph (b) of subsection one of section twelve the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life"; Sec. 12. (Powers of court.)

(b) by omitting from subsections two and three of section eighty-three the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life"; Sec. 83. (Powers of court. Indictable offences.)

(c) by omitting from subsection one of section eighty-six the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life"; Sec. 86. (Power with respect to child or young person charged with certain indictable offences.)

(d) (i) by omitting subsection one of section eighty-seven and by inserting in lieu thereof the following subsections:— Sec. 87. (Child or young person convicted of indictable offence may be sent to institution.)

(1) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of homicide, rape or an offence punishable by death or penal servitude for life, the judge shall sentence him according to law:

Provided that—

(a) where a child or young person has pleaded guilty to, or has been convicted of murder, sentence may be passed in all respects as though section nineteen of the Crimes Act, 1900, as amended by subsequent Acts, did not contain a provision excluding the application of section four hundred and forty-two of that

that Act in respect of the sentence to be passed under the said section nineteen;

(b) sentence of death shall not be pronounced on or recorded against a person under the age of eighteen years, but in lieu thereof the judge shall, unless he exercises the discretion conferred by subsection one of section four hundred and forty-two of the Crimes Act, 1900, as amended by subsequent Acts (which subsection is hereby declared to be in force with respect to the sentence referred to in this paragraph), sentence him to penal servitude for life.

The provisions of the above proviso apply where the person indicted is over the age of eighteen years if, at the time of the commission of the offence, the person indicted had not attained the age of eighteen years.

(1A) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of any indictable offence, other than an indictable offence mentioned in subsection one of this section, the judge may exercise any of the powers of a children's court enumerated in section eighty-three of this Act, or may sentence him according to law, and in the latter case may direct that the child or young person be detained in an institution for the period specified in the sentence.

(ii) by omitting from subsection two of the same section the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

(e) by inserting in subsection one of section ninety-four after the words "sentence of" the words "penal servitude or"; Sec. 94. (Transfers from prisons to institutions.)

(f) by omitting section one hundred and twenty-seven. Sec. 127. (Punishment of capital offences—children and young persons.)

5

Sydney: A. H. Pettifer, Government Printer—1955.

[6d.]

No. , 1955.

A BILL

To amend the Child Welfare Act, 1939, and certain other Acts in certain respects; and for purposes connected therewith.

[Mr. Heffron;—16 *March*, 1955.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Child Welfare (Amendment) Act, 1955." Short title and citation.

(2) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1955.

2. The Child Welfare Act, 1939, as amended by subsequent Acts, is amended— Amendment of Act No. 17, 1939.

(a) by omitting from paragraph (b) of subsection one of section twelve the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life"; Sec. 12. (Powers of court.)

(b) by omitting from subsections two and three of section eighty-three the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life"; Sec. 83. (Powers of court. Indictable offences.)

(c) by omitting from subsection one of section eighty-six the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life"; Sec. 86. (Power with respect to child or young person charged with certain indictable offences.)

(d) (i) by omitting subsection one of section eighty-seven and by inserting in lieu thereof the following subsections:— Sec. 87. (Child or young person convicted of indictable offence may be sent to institution.)

(1) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of homicide, rape or an offence punishable by death or penal servitude for life, the judge shall sentence him according to law:

Provided that—

(a) where a child or young person has pleaded guilty to, or has been convicted of murder, sentence may be passed in all respects as though section nineteen of the Crimes Act, 1900, as amended by subsequent Acts, did not contain a provision excluding the application of section four hundred and forty-two of that

that Act in respect of the sentence to be passed under the said section nineteen;

(b) sentence of death shall not be pronounced on or recorded against a person under the age of eighteen years, but in lieu thereof the judge shall, unless he exercises the discretion conferred by subsection one of section four hundred and forty-two of the Crimes Act, 1900, as amended by subsequent Acts (which subsection is hereby declared to be in force with respect to the sentence referred to in this paragraph), sentence him to penal servitude for life.

The provisions of the above proviso apply where the person indicted is over the age of eighteen years if, at the time of the commission of the offence, the person indicted had not attained the age of eighteen years.

(1A) Where a child or young person upon his trial has pleaded guilty to, or has been convicted of any indictable offence, other than an indictable offence mentioned in subsection one of this section, the judge may exercise any of the powers of a children's court enumerated in section eighty-three of this Act, or may sentence him according to law, and in the latter case may direct that the child or young person be detained in an institution for the period specified in the sentence.

(ii) by omitting from subsection two of the same section the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

(e)

(e) by inserting in subsection one of section ninety-four after the words "sentence of" the words "penal servitude or"; Sec. 94. (Transfers from prisons to institutions.)

(f) by omitting section one hundred and twenty-seven. Sec. 127. (Punishment of capital offences—children and young persons.)

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Sydney: A. H. Pettifer, Government Printer—1955.

[6d.]

CHILD WELFARE (AMENDMENT) BILL, 1955.

EXPLANATORY NOTE.

THE objects of this Bill are—

(a) to alter the references to "homicide, rape or other offence punishable by death" in sections 12, 83 and 86 of the Child Welfare Act, 1939, to "homicide, rape or other offence punishable by death or penal servitude for life"—these amendments are consequential on the proposed abolition of the death penalty in certain cases (see clause 5 of the Crimes (Amendment) Bill, 1955);

(b) to amend section 87 of that Act to provide that where a child or young person pleads guilty to, or is convicted of homicide, rape or an offence punishable by death or penal servitude for life, sentence must be passed according to law, but that—

(i) where the offence is murder, any sentence less than penal servitude for life may be imposed;

(ii) the death penalty shall not be pronounced or recorded, but in lieu thereof a sentence of penal servitude for life or for any less term shall be passed.

The provisions of (i) and (ii) apply where the person concerned is over 18 years of age if he was under 18 years of age at the time of commission of the offence;

(c) to amend section 94 of that Act to make it clear that the section applies where a person under 21 years of age is undergoing a sentence of penal servitude;

(d) to repeal section 127 of that Act—this repeal is consequential on the amendment to section 87.

PROOF

No. , 1955.

A BILL

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[Mr. Heffron;—16 *March*, 1955.]

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(d) (i) by omitting subsection one of section eighty-seven and by inserting in lieu thereof the following subsections:— Sec. 87. (Child or young person convicted of indictable offence may be sent to institution.)

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(ii) by omitting from subsection two of the same section the words "or other offence punishable by death" and by inserting in lieu thereof the words "or an offence punishable by death or penal servitude for life";

(e)

(e) by inserting in subsection one of section ninety-four after the words "sentence of" the words "penal servitude or"; Sec. 94. (Transfers from prisons to institutions.)

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